



The Comptroller General
of the United States

Washington, D.C. 20548

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Decision

Matter of: Department of Transportation-Allocation of
Lump-Sum Appropriation for Pipeline Safety
Programs

File: B-222853

Date: September 29, 1987

DIGEST

Since the Department of Transportation's 1986 Research and Special Programs Administration Appropriation (RSPA) was a lump sum appropriation covering all authorized activities of the RSPA including both the National Gas Pipeline Safety Grant Program and the Hazardous Liquid Pipeline Safety Grant Program, the appropriation is available for both programs even though only one was specifically mentioned in the appropriation act.

DECISION

The Chief Counsel of the Department of Transportation, Research and Special Programs Administration (RSPA), has requested our opinion concerning the allocation of funds for the Department's two pipeline safety grant programs on natural gas and hazardous liquid, section 5(d) of the Natural Gas Pipeline Safety Act of 1968, 49 U.S.C. App. § 1674(d) and section 205(d) of the Hazardous Liquid Pipeline Safety Act of 1979, 49 U.S.C. App. § 2004(d), respectively. He questions whether an authorization act that purports to earmark a prior appropriation for a particular program can be given effect where the particular program was not covered by the earlier appropriation. As explained more fully below, the RSPA appropriation covered both grant programs without a specific or separate designation of funds for either program in the 1986 fiscal year appropriation. This lump sum appropriation is legally available for both programs without any earmark.

Background

The Chief Counsel is concerned that the stipulation in the authorization legislation, committing 5 percent of any amount appropriated for both the pipeline safety grant programs to the hazardous liquid pipeline safety grant program, is at odds with the 1986 appropriation act. He

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interprets the appropriation act as allocating \$4.5 million to the natural gas pipeline safety grant program alone. Under this analysis, he questions whether RSPA's Administrator can legally reassign 5 percent of this \$4.5 million to the hazardous liquid pipeline safety grant program.

The Appropriation

The 1986 fiscal year appropriation for the Research and Special Programs Administration is found in the Department of Transportation and Related Agencies Appropriation Act, H.R. 3244 (contained in the Continuing Appropriation for 1986, Pub. L. No. 99-190, 99 Stat. 1185, 1268-1291 (December 19, 1985)). It provides:

"For expenses necessary to discharge the functions of the Research and Special Programs Administration, for expenses for conducting research and development and for grants-in-aid to carry out a pipeline safety program as authorized by section 5 of the Natural Gas Pipeline Safety Act 1968 (49 U.S.C. § 1674), \$19,300,000, of which \$6,975,000 shall remain available until expended."

According to the Chief Counsel, prior to the authorization contained in the Consolidated Omnibus Budget Reconciliation Act of 1985, Pub. L. No. 99-272, Title VII, Subtitle A, Section 700(a), 100 Stat. 139, April 7, 1986, there was an appropriation for the natural gas pipeline safety grant programs but not for the grant program covering hazardous liquids.

We think that reading of the appropriation act is too narrow. Although the 1986 RSPA appropriation was not specifically made available for funding the hazardous liquid safety grant program, it was available "to discharge the functions of the Research and Special Programs Administration." One of the functions of RSPA was the administration of the Hazardous Liquid Safety Act, supra, including its grant provision. It seems clear, therefore, that the lump-sum appropriation was also available to fund the hazardous liquid pipeline grant program. This is so even though the Administration had not expressly asked for funds for it, nor did the Congress expect when the appropriation was enacted that the program was to be implemented out of that appropriation. Nonetheless, the appropriation was available for all the purposes encompassed by RSPA functions, including hazardous liquid pipeline safety grants.

The express reference to the natural gas pipeline safety grant program in the appropriation appears to have been misleading also as to the amount appropriated to that

program. The Chief Counsel's position is that the appropriation allocated \$4.5 million for the natural gas grant. There is, however, no dollar figure attached to any one of the several purposes mentioned in the appropriation act. The \$4.5 million figure is found only in the committee reports. See H.R. Rep. No. 256, 99th Cong., 1st Sess. 85-87 (1985); S. Rep. No. 152, 99th Cong., 1st Sess. 77-78 (1985). We have often held that lump-sum appropriations cannot be considered as earmarked by committee reports. See, e.g., 55 Comp. Gen. 812 (1976). The committee reports may well explain the presence of the reference to the natural gas pipeline safety grant program in the appropriation act and justify the original intention of RSPA to allocate \$4.5 million to that program, but this history is not legally binding on RSPA even though the Congress might expect the Administration to adhere to the allocation.

for *Harry Z. Jan Clevé*
Comptroller General
of the United States